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FILED

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MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

VIA HAND DELIVERY

The Honorable Paul S. Diamond
United States District Court for the
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 6613
Philadelphia, PA 19106

**Re: The Abi Jaoudi and Azar Trading Corp. v. Cigna Worldwide Ins. Co. et al.
U.S.D.C., E.D. of PA, Civil Action No. 91-6785**

Dear Judge Diamond:

We represent non-party respondent Martin S. Kenney in the above-referenced matter. We write in response to the May 8, 2013 letter sent to your Honor by Joseph A. Tate, counsel for non-party respondents Echemus Group, L.P., Echemus Investment Management Ltd., EF (USA) LLC (collectively, "Echemus") and James Little. In that letter, Mr. Tate asks the Court to order Echemus, Little and defendant Cigna Worldwide Insurance Co. ("CIGNA") into mediation. Although Mr. Tate does not mention Kenney in his letter, it is possible the Court could construe his letter as a request to order CIGNA and *all* the non-party respondents, including Kenney, to mediate. Given that possibility, we wish to make clear to the Court Kenney's position regarding mediation.

We agree completely with Echemus and Little that this matter has cost far too much given the amount at issue and that settlement would be in everyone's best interests. That said, we do not believe it would be appropriate for the Court to order Kenney into mediation without first determining whether it has personal jurisdiction over Kenney. Until that threshold jurisdictional issue is decided, Kenney cannot agree to participate in a court-ordered mediation. If Kenney were to participate in such a mediation, CIGNA may argue that, by doing so, Kenney waived his objections to personal jurisdiction. Kenney would dispute any such argument, but nonetheless it presents a risk Kenney would prefer not to take. Further, if Kenney were to appear

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Honorable Paul S. Diamond

May 10, 2013

Page 2

in the Eastern District of Pennsylvania for a mediation, CIGNA might try to serve him with an amended contempt motion, then argue it had thereby established personal jurisdiction.

Kenney is, however, willing to participate in private (not court-ordered) mediation held outside of the United States. Such a mediation should encompass both this action and the related \$872,000 third party costs proceedings pending in the Cayman Islands. In addition to CIGNA, ACE – the claimant in the third party costs proceedings and the real party in interest here – should participate in any mediation. Kenney is open to discussing such a mediation or similar settlement efforts with ACE, CIGNA, Echemus and Little.

Respectfully submitted,

Robert C. Clothier

RCC/rdl

cc: All Counsel of Record (via email)